

DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES

CHAPTER 112

BODY ART AND COSMETICS

Subchapter 1

Tattoo Parlors

37.112.101 TATTOOING: DEFINITIONS (1) "Certificate of sanitation" means a written certificate issued by the department to a tattoo shop signifying compliance with these rules.

(2) "Client" means the person, customer or patron whose skin will be tattooed.

(3) "Communicable disease" means a disease which can be transmitted from person to person directly or indirectly, including diseases transmitted via blood or body fluids.

(4) "Department" means the department of public health and human services.

(5) "Disinfectant" means a substance or solution, registered with the United States environmental protection agency (EPA), which kills or inactivates viruses and pathogenic microorganisms, but not necessarily their spores, on cleaned environmental surfaces, and which is formulated for decontamination procedures.

(6) "Disposable" means items which are intended for use and disposal, but not necessarily suitable for cleaning, sanitizing and re-use.

(7) "Germicidal cleanser" means a substance, which when used according to manufacturer's instructions, cleans and reduces the level of microbial contamination on a surface, and which is suitable for use on the skin.

(8) "Infectious waste" means the definition found in 75-10-1003, MCA.

(9) "Ink cup" means a small container for an individual portion of pigment which may be installed in a holder or palette, and in which a small amount of pigment of a given color is placed.

(10) "Permanent makeup" means tattooing colored pigment along the upper or lower margin of the eyelids, or into the skin on eyelids, lips, cheeks or other parts of the face for cosmetic purposes.

(11) "Physician" means a person licensed to practice medicine in Montana by the Montana board of medical examiners.

(12) "Sharps" means the definition found in 75-10-1003, MCA.

(13) "Single use" means items which are intended for one time, one person use only, then to be discarded.

(14) "Sterilize" means to treat an object or surface with a procedure that kills or irreversibly inactivates all microorganisms, including bacteria, viruses, and pathogenic fungi, including their spores.

(15) "Tattoo" means the definition found in 50-2-116, MCA.

(16) "Tattooist" means a person who engages in the practice of tattooing the skin of a live human being and includes a person administering tattoos to impart permanent makeup on the skin such as permanent lip coloring, permanent eye-liner or permanent skin coloration for any purpose other than noted in (16)(a) through (d), whether or not such activities occur in whole or in part in a tattoo shop, beauty salon, or other business setting. This term does not include:

(a) the practice of electrology as defined in 37-32-102, MCA;

(b) a physician or licensed medical professional employing colors, dyes, pigments for the purposes of obscuring scar tissues or imparting color to the skin for cosmetic, medical or figurative purposes;

(c) a person engaged in body puncturing or piercing for the purpose of creating a perforation in the skin for inserting jewelry or ornamental hardware, unless that person also does tattooing; or

(d) an acupuncturist.

(17) "Tattoo shop" means any room, space or establishment, including a temporary or mobile facility, where tattooing is practiced.

(18) "Temporary or mobile facility" means a facility where tattooing is conducted for not more than 14 days in a calendar year. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 02 through 04 reserved

37.112.105 TATTOOING: TATTOO SHOP REQUIREMENTS (1) Each tattoo shop must:

(a) have a work room for applying tattoos which complies with ARM 37.112.106;

(b) be maintained in good repair at all times during which the shop is operating. Work rooms, restrooms, hand washing facilities, and all shop areas to which clients have access must be kept clean and free of garbage, litter, unnecessary articles, dust, dirt, and sources of airborne dust. Utility rooms, garbage can storage rooms and workshop rooms, separated from other areas of the shop by closed doors, must be cleaned periodically as necessary to prevent insect or rodent harborage, airborne dust, airborne solvents or toxics or other contaminants;

(c) have an approved water supply and sewage treatment system meeting applicable local and state statutes and rules. If the water source is not served by a public water supply approved by the Montana department of environmental quality, the water source must be sampled for bacteriologic testing at a certified laboratory at least 2 times per year. The testing records must be maintained on the premises and be available for review and verification by the department or its authorized representative. During periods when the public water supply may be contaminated

or operating under a boil order of the Montana department of environmental quality, an alternative source of sterilized water or bottled, distilled water must be used for hand washing and other tattooing operations;

(d) have a client toilet and hand washing sink. The toilet room must be vented, well lighted and equipped with a self-closing door and a covered waste receptacle. A hand washing sink must be located either within the toilet room or within 10 feet of the toilet room door, with a sink, soap dispenser, and hot and cold running water. If the hand washing sink is not in the toilet room, an additional covered waste receptacle is required in the immediate location of the hand washing sink. Single service towels must be provided for hand drying; and

(e) maintain its floors and ceilings in good repair and clean condition.

(2) A tattoo shop may not be operated in any room or area used as living or sleeping quarters. A tattoo shop must be separated from any living or sleeping quarters by complete partitioning and solid self-closing doors.

(3) A temporary or mobile facility may be operated in connection with a tattoo shop if the tattoo shop submits to the department:

(a) a written plan that demonstrates to the department how the temporary or mobile facility will meet the provisions of these rules, or will use alternatives which provide equivalent protection as provided by these rules; and

(b) the department or its authorized representative issues written approval of the plan.

(4) At a minimum, the plan referenced in (3) above must include information on the facility's:

(a) water supply source;

(b) sanitation, sterilization, infection control, and record keeping methods and procedures;

(c) waste disposal methods and procedures, including wastes contaminated with blood or body fluids; and

(d) ability to provide adequate toilets and hand washing sinks. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

37.112.106 TATTOOING: WORK ROOM REQUIREMENTS (1) The work room in which tattoos are applied must be separated by barrier from the waiting area. The room need not have complete physical separation, but must be segregated by counters, barriers and self-closing doors, such that clients or other employees may not enter the work room unless they open a door to gain access. Animals are not allowed in the work room, except for guide or handicap dogs.

(2) The work room must have:

(a) a minimum of 10 foot-candles of light measured at the level of the tattooing operation or the counter top;

(b) adequate ventilation. If heating ducts, vents or air conditioners discharge into the work room, the intakes for such venting must be filtered to minimize airborne dust and insects;

(c) a hand washing sink with hot and cold running water unless there is a hand washing sink outside the work room within 10 feet of the work room door. If the hand washing sink is outside the work room, the work room door must be a 2-way self-closing door. If controls for wrist or foot activation are not available, single service towels must be used for turning controls off after washing hands. The hand washing sink must be sanitized daily; and

(d) a sufficient number of waste receptacles for the disposal of waste materials. A dedicated container for the disposal of sharps must be located in the work room.

(3) The work room may not be used as a corridor for access to other rooms.

(4) The work room must be maintained in a clean condition to prevent contamination from previous clients and exposure to contaminants during tattooing procedures. Work tables, counter tops and other client contact surfaces must be sanitized between

clients with a disinfectant solution having virucidal capability. The floor of the work room must be constructed of smooth and impervious materials and must be wet-mopped daily.

(5) Clients may be tattooed only in the work room.

(6) Closed containers must be maintained in the work room for the storage of instruments, needles, bars, tubes, dyes and pigments, carbon transfer blanks and other materials used in the tattooing procedures. Disinfectants, cleaning compounds, pesticides and other chemicals must be stored in a separate container.

(7) Tables, trays and tattooing utensils may not be shared between or among tattooists tattooing clients at the same time.

(8) Work tables must be constructed of metal or other material which is easily cleanable, smooth, non-absorbent, corrosion-resistant, and easily sanitized. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

37.112.107 TATTOOING: UTENSILS AND SUPPLIES (1) Needles and bars must be:

(a) either single use and disposable and discarded after one use or the needle portion must be detached from the bar and discarded after one use. The bar may be reused after attachment of a new needle and sterilization, in accordance with ARM 37.112.113; and

(b) of single use construction and discarded after one use.

(3) A durable tray must be maintained in the work room for the placement of used tweezers, tubes, bars and needles, and other articles which require autoclaving. Single use needles must be disposed of in a sharps disposal container after use. If needles are to be held for autoclaving, the tray on which the needles are placed must be puncture proof.

(4) The tattoo shop must maintain on its premises at all times the following minimum supplies:

- (a) one-half gallon of germicidal cleanser or tincture surgical soap;
- (b) one-half gallon of 70% isopropyl alcohol;
- (c) one-half gallon of distilled water;
- (d) 18 sets of sterilized needles and bars per tattooist. For purposes of this requirement, one set of needles and bars consists of one liner needle soldered to a bar and one shader soldered to a bar;
- (e) 18 sterile liner tubes per tattooist;
- (f) 18 sterile shader tubes per tattooist;
- (g) 300 disposable latex or vinyl examination gloves; and
- (h) 500 single use ink cups. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 08 through 11 reserved

37.112.112 TATTOOING: HEPATITIS B VACCINATION (1) A tattoo shop owner, employing at least one tattooist, shall offer:

- (a) pre-exposure hepatitis B vaccine to the employee(s), unless serologic testing indicates they are immune to the infection; and
- (b) post-exposure hepatitis B vaccine to the employee(s) who incur a needle stick or other accidental exposure to blood or body fluids, or articles which may be contaminated with blood or body fluids. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

37.112.113 TATTOOING: STERILIZATION REQUIREMENTS

- (1) Each tattooist must:
 - (a) use sets of individually wrapped, sterilized needles, bars and tubes for each new client. Defective or faulty needles may not be used;
 - (b) except as provided in (2) below, sterilize needles, bars, tubes and any other articles which may come into contact with blood or body fluids, using autoclave sterilization, by placing the wrapped needles, bars and tubes in an autoclave for 20

minutes at 15 pounds pressure at a temperature of 250°F, or in accordance with the manufacturer's instructions. Autoclave packaging must be used to sterilize needles, bars, tubes, and any other articles which may come into contact with blood or body fluids. Testing indicator strips for checking temperature must be used each time the autoclave is operated. After autoclaving, the package must be date marked and initialed by the tattooist. If the sterilized needle, bar or tube is not used within 60 days of the sterilization date, the article must be resterilized before use;

(c) conduct quarterly biological monitoring for autoclave effectiveness using standard spore suspension units available for this purpose. A written record of quarterly reports must be maintained on the premises and be available for review and verification by the department or its authorized representative;

(d) following sterilization, keep the needle sets and tubes in the autoclave packaging. The packages may only be opened in full view of the client;

(e) sterilize, by autoclave sterilization, pen-style tattooing machines and the components intended for reuse; and

(f) use a new pair of disposable latex or vinyl examination gloves for each client.

(2) Any tattoo shop in existence in this state prior to the adoption of this rule which uses dry heat sterilization as its sterilization method may continue to use dry heat sterilization, instead of autoclave sterilization as required under (1)(b), for a period of 1 year after the adoption of this rule. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

37.112.114 TATTOOING: ULTRASONIC CLEANING UNIT (1) An ultrasonic cleaning unit, when used for needles, tubes or other parts which may become contaminated during the tattooing process, must be used in accordance with the manufacturer's instructions. An ultrasonic cleaning unit does not satisfy the sterilization requirements in ARM 37.112.113, with or without the addition of chemical sanitizers.

(2) If the tattooist uses the ultrasonic unit at the work station to rinse needles between pigment changes, a disposable cup or single use liner must be placed in the tank prior to use and changed between clients, unless the tank is autoclaved between clients. The used liner must be disposed of in accordance with ARM 37.112.130. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 15 through 19 reserved

37.112.120 TATTOOING: SKIN PREPARATION (1) Prior to performing a tattoo, each tattooist must:

(a) clean under and around his or her fingernails with a nail brush, used solely by the particular tattooist;

(b) thoroughly wash and scrub his or her hands with hot running water, a germicidal hand cleanser and an individual hand brush, used solely by the particular tattooist;

(c) wear a clean outer garment and hair restraint. The hair restraint must be sufficient to prevent contact by the tattooist's hair with the tattoo site. Tie backs or hair nets are acceptable; and

(d) clean and wash the client's skin area to be tattooed with hot water and a germicidal cleanser. If it is not necessary to shave the client's skin area, the tattooist must then rinse the skin area at the tattoo site with a 70% isopropyl alcohol solution or an equivalent rinsing agent commercially labeled for direct use on the skin which contains alcohol or other solvents to remove all cleaning compounds and chemical residue.

(2) If it is necessary to shave the client's skin area to be tattooed, the tattooist must use single service disposable razors. Straight razors and replaceable blade units may not be used. After shaving the client's skin, the tattooist must:

(a) wash and scrub his or her hands;

(b) clean the skin at the tattoo site with tincture surgical soap, green soap or other germicidal cleanser using a sterile gauze pad, sponge or single use tissue; and

(c) rinse the skin at the tattoo site with a 70% isopropyl alcohol solution or an equivalent rinsing agent commercially labeled for direct use on the skin which contains alcohol or other solvents to remove all cleaning compounds and chemical residue. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rule 21 reserved

37.112.122 TATTOOING: PATTERN TRANSFER (1) If the method of pattern transfer involves a reusable plastic or acetate stencil, the stencil must be sanitized immediately prior to the application using a germicidal cleanser and a 70% isopropyl alcohol rinse.

(2) If the method of pattern transfer involves a hectograph pencil, a disposable carbon transfer sheet or a thermal spirit transfer sheet or other single use transfer method, the tattooist must meet the following requirements:

(a) The pencil, drawing instrument, transfer sheet, or other single use transfer product must be stored in a closed dust proof cabinet.

(b) The transfer produced by a tattooist for transferring the design to the skin must be single use. The pattern may be reused.

(3) An adherent or emollient applied to facilitate a pattern transfer, or to cover a pattern after transfer, must be from a single use collapsible tube, a spray

bottle or a large supply container. If a large supply container is used, the adherent or emollient must be extracted using a disposable, single use utensil such as a disposable tongue depressor to prevent contamination of the adherent or emollient supply.

(4) After preparing the client's skin for tattooing, including washing and if necessary, shaving, and setting up the equipment and supplies for the tattooing procedure, the tattooist must put on a pair of disposable latex or vinyl examination gloves to be used only for that particular tattooing procedure. If the tattooist wore gloves to wash or shave the client's skin, the tattooist must discard those gloves after completing those procedures. The tattooist must then put on a new pair of disposable latex or vinyl examination gloves before proceeding with the tattooing. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rule 23 reserved

37.112.124 TATTOOING: TATTOO APPLICATION (1) If, during the process of tattooing, the tattooist sustains a needle stick, the tattooist must:

- (a) stop tattooing immediately;
- (b) replace the tube, needle, and bar sets with a sterile setup; and
- (c) wash and reglove before continuing the tattoo procedure.

(2) During the process of tattooing, each tattooist must:

(a) use single use disposable ink cups for pigments and dispose of the ink cups after each client so that ink cups may not be reused on another client or for any other purpose. If additional pigment must be added to the ink cup during the tattooing procedure, a disposable handling liner may be used or the tattooist must wash and re-glove. Ink storage containers and other surfaces must be considered as potentially contaminated. Individual pigment portions and ink cups must be disposed of in accordance with ARM 37.112.130;

(b) use single use disposable gauze or tissue to absorb blood, fluids and ink on the client's skin during the tattooing procedure;

(c) not smoke in the work room during tattooing procedures;

(d) avoid touching his or her eyes, nose or mouth with gloved hands. After gloving, if any object, such as an ink container, a telephone receiver, or door knob, is inadvertently touched or retrieved from the floor or otherwise comes into contact with the gloved hands of the tattooist, the tattooist must rewash and reglove before proceeding with the tattooing procedure; and

(e) prohibit dusting, cleaning, vacuuming or other cleaning of floors, walls, ceilings or attached equipment during times when clients are being tattooed or while tattoos are exposed to the air. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rule 25 reserved

37.112.126 TATTOOING: AFTERCARE (1) After applying the tattoo, each tattooist must wash the completed tattoo with a piece of sterile gauze or sterile cotton saturated with a germicidal cleanser or tincture surgical soap, and allow the tattooed skin to air dry. After drying, anti-bacterial ointment must be applied from a collapsible tube, a single use package, or a supply container using a disposable instrument such as a sterile tongue depressor. After one use, the disposable instrument must be discarded. The entire tattooed skin area must be covered with a non-stick sterile gauze and bandage or other effective means of protection and infection prevention.

(2) Aftercare instructions must be provided to the client both verbally and in writing after every tattoo procedure. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rule 27 reserved

37.112.128 TATTOOING: COLORS, DYES AND PIGMENTS

(1) Each tattooist must use colors, dyes and pigments from reputable suppliers, stored in appropriate containers, to insure and maintain their integrity and sterility. After completing the tattooing procedure, the remaining dye or pigment in the disposable ink cup must be regarded as infectious waste, and must be discarded in accordance with ARM 37.112.130.

(2) Pigments mixed or prepared in the tattoo shop must be non-toxic and

sanitary and must be prepared and stored in accordance with the manufacturer's instructions.

(3) A tattooist who becomes aware of a client who has experienced an apparent reaction, allergy, or sensitivity to a pigment used in tattooing must report the condition and pigment information to the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, Cogswell Building, P.O. Box 202951, Helena, Montana 59620-2951 or the local health officer. Adulterated pigments or those containing deleterious substances may be subject to voluntary hold, manufacturer recall or other action under the Montana Food, Drug and Cosmetic Act, the federal Food, Drug and Cosmetic Act, or other local, state or federal law. This reporting requirement does not apply to skin sensitivity to antibacterial ointments, soaps, or tape adhesive used in bandaging.

(4) Pigments or dyes disapproved or under recall by the United States food and drug administration or the department under the Montana Food, Drug and Cosmetic Act may not be used. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rule 29 reserved

37.112.130 TATTOOING: HANDLING AND DISPOSAL OF INFECTIOUS MATERIAL (1) Each tattooist must ensure that sharps, such as discarded or used needles, razors and any other articles that may cause punctures or cuts, and other articles which are contaminated, or which contain or may contain infectious waste, are handled and disposed of in accordance with the following requirements:

(a) A sharps disposal container must be used in which sharps are placed for storage, transportation, treatment, and subsequent disposal. An adequate supply of sharps containers must be maintained on the premises. A sharps container must:

(i) be sealable, rigid (puncture proof), and strong enough to protect the handler and others from accidental cuts or puncture wounds;

(ii) not be filled more than 3/4 full; and

(iii) be leak proof, and labeled or color-coded.

(b) Infectious disposable waste, other than sharps, must be placed in moisture-proof disposable containers or bags of a strength sufficient to prevent ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied to prevent leakage or expulsion of solid or liquid wastes during storage, handling, and transportation. Waste receptacles must be removed by persons trained in infection control. Single plastic trash can liners may not be used as a vehicle for storing or transporting infectious waste.

(c) A tattooist must use:

(i) an implement or tool, such as tongs or pliers, to bend, separate from the bar or otherwise manipulate used needles; and

(ii) a brush, dust pan or tongs to pick up any broken glassware in the work room. A tattooist, having engaged in such cleanup, must wash his or her hands and

reglove before working with a client.

(d) Laundry which may have been contaminated with blood must be handled as little as possible and stored separately in a closed container prior to cleaning. It must be stored and transported in bags or containers which prevent soak-through or leakage of fluids.

(e) All disposable infectious waste or material must be treated and disposed of in accordance with Title 75, chapter 10, part 10, MCA. The department hereby adopts and incorporates by reference Title 75, chapter 10, part 10, MCA, which sets forth the requirements for treating and disposing of infectious waste. A copy of Title 75, chapter 10, part 10, MCA, may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, Cogswell Building, P.O. Box 202951, Helena, Montana 59620-2951. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 31 through 34 reserved

37.112.135 TATTOOING: CLIENT RECORD (1) Each tattooist must maintain a client record for each client. At a minimum, the client record must include:

- (a) a copy of the signed consent form required by ARM 37.112.136;
- (b) the name of the tattooist who performed the tattoo, and the address and telephone number of the tattoo shop;
- (c) special instructions or notations regarding the client's medical or skin conditions; and
- (d) a written physician referral if a referral is required by ARM 37.112.140.

(2) Client records must be maintained on the tattoo shop premises for a minimum of 2 years. The records must be available for review and verification by the department or its authorized representative. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

37.112.136 TATTOOING: CONSENT FORM (1) Each client must sign a consent form. The consent form must contain:

- (a) the client's name and address, the date tattooed, the design of the tattoo, its location on the client's body and any other information that the tattooist may deem appropriate;
- (b) pre-service information describing:
 - (i) possible allergies, skin or systemic reactions, side-effects and potential complications of tattooing, including the possibility of scarring and changes in the appearance of the tattoo over time; and
 - (ii) the permanent nature of tattoos, including a description of removal methods such as laser treatment or surgery.

- (c) a statement by the client that the client:
 - (i) is free from a communicable respiratory or diarrheal disease;
 - (ii) has been provided with the pre-service information, both in writing and verbally by the tattooist; and
 - (iii) consents to the tattoo. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 37 through 39 reserved

37.112.140 TATTOOING: RESTRICTIONS AND PROHIBITIONS

- (1) The tattoo application may not proceed:
 - (a) if either the tattooist or the client is under the apparent influence of alcohol or other mind-altering drugs;
 - (b) if either the tattooist or the client has a communicable respiratory or diarrheal disease;
 - (c) if the client has not signed the consent form required by ARM 37.112.136; or
 - (d) if the client is under the age of majority, without the explicit in-person consent of the client's parent or guardian as provided in 45-5-623(1)(e), MCA. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of 45-5-623(1)(e), MCA.
- (2) A written physician referral is required before tattooing a client if:
 - (a) the client is taking any drug which may induce bleeding tendencies or reduce clotting;
 - (b) the client shows signs of recent intravenous drug use;
 - (c) the client has a sunburn or other skin disease or infection such as a rash, wound, or puncture mark, psoriasis, eczema, or lesions at the tattoo site; or
 - (d) the client declares or evidences allergies or contact sensitivity to pigments, soaps, or other substances used in the tattooing process.
- (3) The tattooist may delay tattooing or require a medical referral before tattooing persons whose physical health, understanding or judgment may be in question. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 41 and 42 reserved

37.112.143 TATTOOING: OPERATION (1) A tattoo shop shall:

- (a) possess a current certificate of sanitation from the department to operate; and
- (b) display the certificate of sanitation in a prominent place in the tattoo shop. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)

Rules 44 and 45 reserved

37.112.146 TATTOOING: INSPECTION AND ENFORCEMENT

(1) The department or its authorized representative may conduct inspections at all times when the tattoo shop is operating.

(2) The department may, after providing notice and an opportunity for hearing, refuse to issue a certificate of sanitation to a tattoo shop, or may revoke or suspend a certificate of sanitation, for violations of these rules.

(3) A hearing request must be made in writing to the department within 10 days of the date of the department's notice of its intention to refuse to issue a certificate of sanitation or to revoke or suspend a certificate of sanitation.

(4) A hearing for the refusal, revocation or suspension of a certificate of sanitation is governed by the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, MCA. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; NEW, 1998 MAR p. 967, Eff. 4/17/98; TRANS, from DHES, 2001 MAR p. 2429.)